

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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February 5, 2019

The Honorable Rick Perry
Secretary
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Secretary Perry:

Pursuant to Rules X and XI of the U.S. House of Representatives, we write again to request information regarding the Department of Energy's (DOE) troubling record on Appliance and Equipment Standards Program rulemakings since the start of the Trump Administration.

Members of this Committee wrote you on November 1, 2018, expressing our deep concern that DOE's failure to fulfill its statutory responsibilities under the Appliance and Equipment and Standards Program will result in significantly higher costs for consumers, while also increasing greenhouse gas emissions. However, the Department's response failed to provide any substantive answers to our questions.

According to DOE documents and reports, the agency has failed to publish energy efficiency standards already adopted and finalized and has failed to establish and update appliance and equipment standards as required by federal law. Furthermore, DOE plans to roll back energy efficiency standards for lightbulbs,¹ which are projected to save consumers more than an estimated \$665 billion through 2050.²

We are deeply concerned that DOE's failure to fulfill its statutory responsibilities under the Appliance and Equipment and Standards Program will raise costs for consumers and increase greenhouse gas emissions that contribute to climate change.

¹ *The Energy 202: Trump Administration Preparing To Do Away With Obama-Era Lightbulb Rule, Document Says*, Washington Post (Aug. 8, 2018).

² Appliance Standards Awareness Project and American Council for an Energy Efficient Economy, *U.S. Light Bulb Standards Save Billions For Consumers But Manufacturers Seek a Rollback* (July 2018).

The Appliance and Equipment Standards Program sets a minimum level of efficiency for more than 60 products, cutting energy waste, encouraging innovation, reducing pollution, and saving American consumers money.³ DOE estimates that efficiency standards completed from 1987 to February 2016 would, by 2030, save American businesses and homes nearly \$2 trillion dollars on utility bills and reduce carbon dioxide emissions by more than \$7 billion metric tons.⁴ DOE's continued failure to implement energy efficiency standards jeopardizes these significant consumer savings and environmental benefits.

DOE's Illegal Failure to Publish Final Energy Conservation Standards Could Cost Consumers \$8 Billion Dollars

DOE has unlawfully failed to publish in the Federal Register four common-sense energy efficiency standards finalized in 2016 that are designed to increase efficiency of portable air conditioners, air compressors, commercial packaged boilers, and uninterrupted power supplies.⁵ This inaction violates DOE's statutory obligations under the Energy Policy and Conservation Act (EPCA).⁶ DOE's attempt to block these rules from taking effect reportedly could have "cost Americans \$8 billion in higher energy bills and created uncertainty among U.S. manufacturers."⁷

Rollback of Commonsense Lightbulb Efficiency Standards Would Increase Consumer Costs and Energy Consumption

Additional consumer savings could also be eliminated by DOE's planned rollback of national energy efficiency standards for lightbulbs. The first standards for lightbulbs were enacted on a bipartisan basis by Congress and signed into law by President Bush in 2007. Since that time, these minimum lightbulb efficiency standards have spurred market changes and innovations that have driven down consumer costs, created jobs, and maintained U.S. industry competitiveness.

³ Department of Energy, Office of Energy Efficiency and Renewable Energy, *Appliance and Equipment Standards Program* (www.energy.gov/eere/buildings/appliance-and-equipment-standards-program).

⁴ Department of Energy, Office of Energy Efficiency and Renewable Energy, *Saving Energy and Money with Appliance and Equipment Standards in the United States* (Oct. 2016).

⁵ *Natural Resources Defense Council, et al. v. James R. Perry*, 302 F. Supp. 3d 1094, (N. D. Cal. 2018).

⁶ 10 C.F.R. 430.5. Publication of these standards is currently subject to ongoing litigation. On April 11th, 2018, the 9th Circuit Court granted a stay pending appeal by the Department of Energy. *NRDC, Inc. v. Perry*, Nos. 18-15380, 18-15475, 2018 U.S. App. LEXIS 9088 (9th Cir. Apr. 11, 2018).

⁷ *Court Rules Energy Dept. Must Implement Obama Efficiency Rules*, The Hill (Feb. 15, 2018).

Then, on January 19, 2017, DOE finalized a rule that expands the range of lightbulbs that must be more energy efficient.⁸ These new standards, which go into effect in 2020, are intended to remove inefficient products from the market, save consumers money on electric bills, and reduce greenhouse gas emissions. Cumulatively, consumers nationwide would reportedly save more than \$665 billion on electricity bills by 2050 as a result of more efficient lightbulbs.⁹

The Trump Administration has announced plans to abandon this progress by withdrawing the planned revisions to the standards.¹⁰ DOE's planned rollback of the 2020 standards threatens to eliminate significant consumer savings and would only serve to allow inefficient products to remain on the market.

DOE's Failure to Establish and Update Standards in Violation of Federal Law Could Further Increase Consumer Costs and Greenhouse Gas Emissions

We are also concerned that DOE's refusal to promulgate a series of energy conservation standards and test procedures will result in higher utility bills for consumers and increased carbon emissions. According to DOE's most recent implementation report on Energy Conservation Standards Activities, as of February 2018, DOE missed statutory or judicial deadlines for over 20 rulemakings with potential cumulative utility bill savings of over \$445 billion.¹¹ This includes efficiency standards and test procedures on popular consumer products such as water heaters, clothes dryers, and room air conditioners.¹²

DOE's inability or unwillingness to meet legal obligations ignores Congress' intent that efficiency standards be regularly updated to provide continuous benefits to consumers.

⁸ Department of Energy, *Energy Conservation Program: Energy Conservation Standards for General Service Lamps*, 82 Fed. Reg. 7322 (Jan. 19, 2017) (final rule).

⁹ Appliance Standards Awareness Project and American Council for an Energy Efficient Economy, *U.S. Light Bulb Standards Save Billions For Consumers But Manufacturers Seek a Rollback* (July 2018).

¹⁰ Office of Information and Regulatory Affairs, *Energy Conservation Program: Definition for General Service Lamps, Fall 2018* (www.reginfo.gov/public/do/eAgendaViewRule?pubId=201810&RIN=1904-AE26).

¹¹ See Department of Energy, *Energy Conservation Standards Activities: Report to Congress* (Feb. 2018) and Appliance Standards Awareness Project and American Council for an Energy-Efficient Economy, *Next Generation Standards: How the National Energy Efficiency Standards Program Can Continue to Drive Energy, Economic, and Environmental Benefits* (Aug. 2016).

¹² Department of Energy, *Energy Conservation Standards Activities: Report to Congress* (Feb. 2018).

Moreover, DOE has failed to provide Congress statutorily required semi-annual progress reports,¹³ with DOE providing Congress only one update since President Trump took office.¹⁴

We request a briefing on, and reiterate our request for, the following information so the Committee may better understand DOE's energy efficiency rulemakings and the Department's plans for establishing, publishing, and updating standards:

1. A current list of DOE Appliance and Equipment Standards Program rulemakings with missed statutory deadlines, and any DOE analysis of the corresponding financial impact to consumers for each missed deadline.
2. A current list of DOE Appliance and Equipment Standards Program rulemakings with upcoming statutory deadlines.
3. An updated schedule for all Appliance and Equipment Standards Program rulemakings listed in the most recent draft five-year plan for test procedures and energy conservation standards.¹⁵
4. All communications from January 20, 2017 to present between DOE career employees and political appointees, including but not limited to officials in the DOE Office of General Counsel, and employees or representatives of non-profit organizations, foundations, and research groups, as well as impacted companies and associations. We request you include all electronic mail, a list of meetings (including teleconferences), providing the meeting date, each participant's name, title, and organizational affiliation, as well as any materials used during or exchanged by external participants and DOE officials before or after the meeting.

Please schedule a briefing and provide all requested answers and documents no later than February 19, 2019. If you have any questions, please contact Jon Monger with the Committee staff at (202) 225-2927. Thank you for your prompt and thorough attention to this matter.

¹³ DOE is required by Section 141 of the Energy Policy Act of 2005 (EPACT 2005) and section 305 of the Energy Independence and Security Act of 2007 (EISA 2007) to provide semi-annual reports to Congress. Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594, Sec. 141 and Energy Independence and Security Act of 2007, Pub. L. No. 110-140, 121 Stat. 1492, Sec. 305.

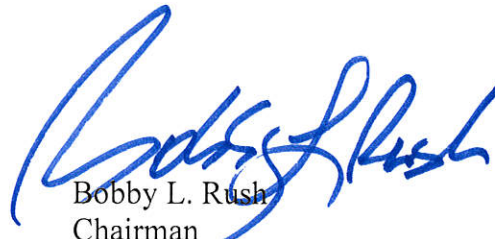
¹⁴ Department of Energy, Office of Energy Efficiency and Renewable Energy, *Reports and Publications* (www.energy.gov/eere/buildings/reports-and-publications).

¹⁵ Department of Energy Office of Energy Efficiency and Renewable Energy, Appliance Standards and Rulemaking Federal Advisory Committee, *Draft 5-Year Appliance Standards Rulemaking Schedule* (www.energy.gov/sites/prod/files/2017/01/f34/5-year_current_and_future_rulemakings_asrac_01.18.2017.pdf).


Sincerely,



Frank Pallone, Jr.
Chairman



Bobby L. Rush
Chairman
Subcommittee on Energy



Diana DeGette
Chair
Subcommittee on Oversight
and Investigations

cc: The Honorable Greg Walden, Ranking Member, Committee on Energy and Commerce
The Honorable Fred Upton, Ranking Member, Subcommittee on Energy
The Honorable Brett Guthrie, Ranking Member, Subcommittee on Oversight and
Investigations